

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

WP(C).No. 33970 of 2007(R)

EP 226/04 in OS.187/2000 of SUB COURT,ALAPPUZHA

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PETITIONER:

B.DILEEP KUMAR, S/O. V.R.BHARGAVAN,
VADAYAZHAM HOUSE, KAITHAVANA, ALAPPUZHA.

BY ADV. SRI.M.P.MADHAVANKUTTY

RESPONDENT:

FEDERAL BANK LTD.,
KALARKODE BRANCH, ALAPPUZHA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.33970 of 2007

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Dated this the 19th day of November, 2007.

JUDGMENT

This Writ Petition is filed directing the Subordinate Judge, Alappuzha to adjourn the proposed sale by a period of three months. It is submitted by the learned counsel for the writ petitioner that if three months time is given, he will discharge the entire liability.

2. Heard learned counsel for the decree holder as well. It is submitted that on an earlier occasion also time has been granted. But the writ petitioner has failed to comply with the terms of undertaking and that had resulted in the procedure for sale. It is also submitted by the counsel for the writ petitioner that an amount of Rs.1,25,000/- has been paid and he is really interested in paying the balance amount. I feel that some breathing time can be given to the petitioner on stringent conditions.

3. Therefore, the Writ Petition is disposed of directing the petitioner to pay the balance decree amount in three equal monthly instalments commencing from 18th December, 2007. If he commits default of the first instalment or any of the subsequent instalments, the petitioner will not be entitled to get the instalment benefit and since the sale is being adjourned at his request, he is not entitled to demand fresh proclamation and it stands as waived and the court can sell the property on the basis of the very same proclamation. The first instalment payment shall be for Rs.40,000/-.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

ess 19/11